

REMARKS/ARGUMENTS

Applicant thanks the Examiner for the allowance of claims 113-114, 116-117, and 119-120 and indication of allowability of claims 65-66, 77-78, and 88-89.

The Examiner rejects claims 56-60, 62-64, 67-72, 74-76, 79-83, 85-87, and 104-112 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-10 of U.S. 6,298,616.

A Terminal Disclaimer is filed concurrently herewith to overcome this rejection.

The Examiner objects to the numbering of the claims as not being in accordance with 37 CFR 1.126, which requires the original numbering of claims to be preserved throughout prosecution. Accordingly, misnumbered claims 112-119 have been renumbered to 113-120.

The Examiner rejects Claims 56, 58, 60-64, 67-68, 70, 72-76, 79, 81, 83-87, 104, 106-108, 110-112, 115, and 118 under 35 U.S.C. §102(b) as being anticipated by Ting (U.S. 4,840,004) and claims 56, 61, 67, 69, 79, and 104-112 under 35 U.S.C. §102(b) as being anticipated by Ting (U.S. 5,452,552) and claims 57, 59, 69, 71, 80, and 82 under 35 U.S.C. §103(a) as being unpatentable over Ting '004 or Ting '552..

Applicant respectfully traverses the Examiner's rejection.

The '004 patent has at least the following deficiency:

(a) the fluid collected in the circulating chamber (identified by the Examiner as the area defined by 31 and the space where item 30 is located) is physically unable, due to intervention of item 30 from passing, in the form of a water film, through the gap and inlet and into the terrestrial or outer environment.

The '552 patent has at least the following deficiencies:

(a) the fluid collected in the circulating chamber (identified as item 26 by the Examiner) is physically unable, due to intervention of the part where holes 38 are located from passing, in the form of a water film, through the gap and inlet and into the terrestrial or outer environment.

(b) the interior regions, namely the areas 26 and inside of the perimeter framing member 21, in communication respectively with the drainage holes 38 and 68 are not positioned behind the first and second wall panels 19 and the first and second perimeter framing members 21 and 15.

(c) the plurality of drainage holes (those holes identified as item 38 by the Examiner) are not positioned above the free end of the capillary break.

The Examiner counters by finding the capillary break, in the ‘004 patent, to be the part on the left and below holes 37 and, in the ‘552 patent, to be the part 34. As amended, the claims require the capillary break to be located *exteriorly* of the drainage holes and the circulating chamber. The “capillary breaks” identified by the Examiner in the ‘004 and ‘552 patents are located *interiorly* of the drainage holes.

For the foregoing reasons, Applicant believes that the pending claims are allowable over the ‘004 and ‘552 patents.

The dependent claims provide additional bases for finding allowance.

By way of example, Claims 57, 69, and 80 require an adjacent edge of a nearest drainage hole to be at least about 0.75 inches from the rear surface of the capillary break. Claims 59, 71, and 82 require, at any location along the capillary break, an adjacent edge of a nearest drainage hole to be at least about 0.25 inches from a rear surface of the capillary break. These dimensions are not specifically taught or suggested by the cited references.

Claims 58, 70, and 81 require the space between a free end of the capillary break and an opposing wall of the recess to have a first vertical cross-sectional area and another space between opposing walls of the recess at a point between the capillary break and the plurality of drainage holes to have a second vertical cross-sectional area, with the second vertical cross sectional area being at least about 150% of the first vertical cross sectional area. Claims 60, 72, and 83 require the centers of the plurality of drainage holes to lie along a common axis, with a distance of the drainage holes above a free end of the capillary break being at least about 125% of a distance from the free end of the capillary break to an adjacent, opposing surface of the recess. Claims 62, 74, and 85 are directed to the plurality of drainage holes being spaced at regular intervals along the at least one of the first and second perimeter framing members, with a height of the capillary break ranging from about 125 to about 200% of a distance between a free end of the capillary break and an adjacent, opposing surface

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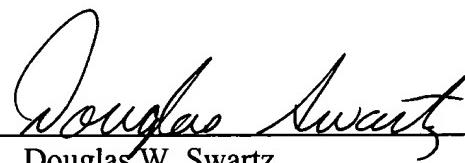
of the recess. Claim 66, 78, and 89 are directed to the capillary break having a height and being separated by a gap from the first perimeter framing member, with the height being at least about 100% of the width of the gap and exterior surfaces of the first and second wall panels being at least substantially parallel and coplanar. These percentages are not specifically taught or suggested by the cited references.

Based upon the foregoing, Applicants believe that all pending claims are in condition for allowance and such disposition is respectfully requested. In the event that a telephone conversation would further prosecution and/or expedite allowance, the Examiner is invited to contact the undersigned.

Respectfully submitted,

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